

BOARD OF APPEALS
for
MONTGOMERY COUNTY

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Case No. A-5782

PETITION OF WILLIAM A. AND JOHANNA K. WALK

(Hearing held July 17, 2002)

OPINION OF THE BOARD

(Effective date of Opinion, August 21, 2002)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.322(a). The petitioners propose to construct a two-story addition that requires a 4.25 foot variance as it is within thirty-five (35) feet of the established front building line. The required setback is 39.25 feet.

The subject property is Lot 5, Block F, Chevy Chase Section 8 Subdivision, located at 7208 Oakridge Avenue, Chevy Chase, Maryland, in the R-60 Zone (Tax Account No. 00472321).

Decision of the Board: Requested variance **granted**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners propose to construct a two-story addition in the western side yard.
2. The petitioner testified that the property is a shallow, pie-shaped lot. See, Exhibit Nos. 4 and 8. The petitioner testified that the addition will be located in the western side yard, but requires a variance from the front yard as a result of the lot's unusual shape.
3. The petitioner testified that the curve on Oakridge Avenue starts at the lot's southwest corner and brings the street closer to the house. The petitioner testified that the addition will not come any closer to the street than the existing residence and that the addition will be set back approximately 6 inches from the front of the house.
4. The petitioner testified that the property shares a driveway with Lot 4 and that the addition will adjoin the driveway. The petitioner testified that the neighboring house of Lot 4 has no windows on the side of the house that would face the addition.

FINDINGS OF THE BOARD

Based on the petitioner's binding testimony and the evidence of record, the Board finds that the variance can be granted. The requested variance complies with the applicable standards and requirements set forth in Section 59-G-3.1 as follows:

- (a) *By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The property is a pie shaped lot. The lot is located at the peak of the curve on Oakridge Avenue. The Board finds that these are exceptional conditions peculiar to the lot and result in practical difficulties for the petitioner.

- (b) *Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.*

The Board finds that the variance requested for the two-story addition is the minimum reasonably necessary.

- (c) *Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.*

The proposed construction will continue the residential use of the property and the variance will not impair the intent, purpose, or integrity of the general plan or approved area master plan.

- (d) *Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.*

The record contains no testimony or correspondence in opposition the variance request. The neighboring house most impacted by the addition has no windows that will face the structure. The Board finds that the requested variance will not be detrimental to the use and enjoyment of the neighboring and adjoining properties.

Accordingly, the requested variance of 4.25 feet from the required 39.25 foot established front building line for the construction of a two-story addition is granted subject to the following conditions:

1. The petitioner shall be bound by all of his testimony and exhibits of record, to the extent that such evidence and representations are identified in the Board's Opinion granting the variance.

2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4 and 7(a) through 7(g).
3. The petitioner shall install screening at the southwest section of property.
4. The petitioner shall install drains that will drain either to the front of the property or to the property's driveway.

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Louise L. Mayer, seconded by Donna L. Barron, with Angelo M. Caputo, Allison Ishihara Fultz and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the following Resolution:

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 21st day of August, 2002

Katherine Freeman
Executive Secretary to the Board

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

